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07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
09 AT SEATTLE

10 LUIS ALVAREZ HURTADO,) CASE NO. C07-1741-TSZ
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12 Petitioner,)
13)
14 v.) SUPPLEMENTAL REPORT AND
15) RECOMMENDATION
16 A. NEIL CLARK,)
17)
18 Respondent.)
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23 Petitioner is a native and citizen of Peru, who is currently detained by the U.S. Immigration
24 and Customs Enforcement (“ICE”) pursuant to an administratively final order of removal that was
25 entered on August 21, 2007. On November 7, 2007, he filed a Petition for Writ of Habeas Corpus
26 pursuant to 28 U.S.C. § 2241, arguing that his detention is unreasonable because he is unable to
27 afford the \$7,000 bond amount imposed by the Immigration Judge. (Dkt. 6). Respondent moved
28 to dismiss, arguing that petitioner’s detention is lawful and that his bond is a proper condition of
29 release. (Dkt. 12). On April 2, 2008, the undersigned Magistrate Judge issued a Report and
30 Recommendation (“R&R”), finding that because ICE never determined whether petitioner is likely

01 to abscond or is a poor bail risk, it is uncertain whether the \$7,000 bond amount is reasonable and
02 appropriate given petitioner's circumstances. Accordingly, the undersigned Magistrate Judge
03 concluded that this matter should be remanded to the Immigration Court for further findings on
04 whether the \$7,000 bond amount is reasonable and appropriate. (Dkt. 14).

05 After the R&R was issued, however, ICE conducted a custody review of petitioner's case
06 and determined that petitioner is a flight risk because he has no source of income, no ties to the
07 community, and no stable residence, and that he should be detained without bond. (Dkt. 16).
08 Respondent asserts that because petitioner's custody status has been reviewed, there is no need
09 for an individual determination by an Immigration Judge. On May 20, 2008, the Honorable
10 Thomas S. Zilly issued an Order re-referring this matter back to the undersigned Magistrate Judge
11 for further consideration of the habeas petition. (Dkt. 17).

12 The Court agrees with respondent that petitioner's habeas petition is moot and should be
13 dismissed. As respondent notes, since his last custody review, petitioner has been detained
14 without bond. Accordingly, petitioner's request that his bond be reduced from \$7,000 to \$1,500
15 is now moot as he is no longer eligible for release on bond.

16 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of
17 the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).
18 "When a controversy no longer exists, the case is moot." *Id.* Because petitioner is detained
19 without bond, the Court finds that petitioner's request for a lower bond amount should be
20 dismissed as moot. *See, e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992) (holding that
21 the District Court properly dismissed plaintiff's claims that had become either moot or unripe).
22 Accordingly, I recommend that respondent's motion to dismiss be granted, and that this action be

01 dismissed with prejudice. A proposed Order accompanies this Report and Recommendation.

02 DATED this 29th day of May, 2008.

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Mary Alice Theiler
United States Magistrate Judge

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